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## FISCAL IMPACT REPORT

SPONSOR Moores ORIGINAL DATE 2/5/2021  
LAST UPDATED 2/7/2021 HB \_\_\_\_\_  
SHORT TITLE Filling US Representative Vacancies SB 254/ec  
ANALYST Nichols

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$3,000.0	\$3,000.0		\$6,000.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to an appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Secretary of State (SOS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 254 proposes to add a special primary election and special general election to fill a vacancy for the office of U.S. representative. Only major party candidates could participate in the special primary and could do so by collecting a required number of nominating signatures or paying a filing fee of \$3,000. Minor party, independent, and write-in candidates could participate in the general election by collecting a required number of nominating signatures or paying a filing fee of \$3,000.

The special primary and special general elections would be conducted in the same manner as a regular general election.

The bill specifies when elections would be held, based on how close the vacancy occurs to the next regularly scheduled primary or general election.

- If a vacancy occurs less than 160 days before a general election, a special primary and special general election would not be held. Instead, candidates seeking office in the next general election would fill the unexpired term as well as the succeeding term they are

elected for.

- If a vacancy occurs between 130 and 160 days before a primary election, the special general election would be conducted concurrently with the primary election.
- If a vacancy occurs between 63 and 90 days before a primary election, the special primary election would be held concurrently with the regular primary election.

The legislation also proposes to repeal Laws 2020, Chapter 9, Sections 5 and 7, which deal with the required number of nominating signatures for primary elections and for independent candidates in an election for U.S. representative.

SB254 would also remove language that references an election of a public regulation commissioner because these positions are no longer elected.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

## **FISCAL IMPLICATIONS**

SB254 would require two elections – the special primary election and special general election – to fill a vacancy for U.S. representative. SOS estimates each election would cost approximately \$3 million.

Based on current statute, SOS has made a special appropriation request of \$3 million to pay for an anticipated special election to occur 2021. SB254 would add another election at a similar cost.

## **SIGNIFICANT ISSUES**

Currently, a central committee nominates party candidates to run in a special election to fill a vacancy for U.S. representative. SB254 would replace that process with a special primary election, allowing voters to determine which candidates would participate in a special general election.

SOS expresses concern about the emergency clause in the bill, noting that administrative and budgetary planning has already taken place in anticipation of the special election in New Mexico's 1st congressional district in coming months.

SOS also notes the proposed time period between conducting a special primary and special general election of at least 63 days may not align with current timelines in law for completing the county and state canvass, certifying results, addressing potential automatic recounts, or other election contests.

In addition, SOS notes allowing candidates to pay a filing fee instead of collecting signatures negates the practice of demonstrating voter support for a candidate.

Adding a new election to the process to fill the U.S. representative vacancy would likely extend the time in which New Mexico has a vacancy in Congress.

**ADMINISTRATIVE IMPLICATIONS**

SOS and county clerks would be required to conduct an additional election. Election administrators have already begun planning for an anticipated special election to fill a likely forthcoming vacancy in the state's 1st congressional district, currently filled by Representative Deb Haaland.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 286 provides temporary provisions to administer the expected special election to fill a U.S. representative vacancy in 2021, enacting measures to hold an election amidst the ongoing Covid-19 pandemic.

**TECHNICAL ISSUES**

Page 16, line 20 through page 17, appears to potentially conflict other provisions of the bill, suggesting that major parties would still nominate a candidate to run in the special election.

AN/sb/rl